

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

(Attorney Docket No. 14169US02)

In the Application of:

Jeyhan Karaoguz et al.

Serial No.: 10/606,565

Filed: June 26, 2003

For: METHOD AND SYSTEM FOR
PROVIDING A MESH NETWORK USING
A PLURALITY OF WIRELESS
ACCESS POINTS (WAPS)

Examiner: Blanche Wong

Group Art Unit: 2476

Confirmation No.: 4707

Transmitted via the Office electronic filing
system **June 25, 2010.**

**APPLICATION FOR RECONSIDERATION OF THE
DETERMINATION OF PATENT TERM ADJUSTMENT
UNDER 35 U.S.C. 154(b)
ACCOMPANYING THE NOTICE OF ALLOWANCE
(37 CFR § 1.705)**

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

The applicant respectfully requests reconsideration of the Determination of Patent Term Adjustment Under 35 U.S.C. 154(b) (PTOL-85) accompanying the Notice of Allowance mailed March 26, 2010, ("the Decision") to the extent indicated in the following discussion and the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR. This application for reconsideration of the Decision is being filed after the date of mailing of the Notice of Allowance and no later than the payment of the issue fee.

This application for reconsideration of the Decision is accompanied by the fee set forth in § 1.18(e) (\$200).

This application for reconsideration of the Decision includes below a statement of the facts involved in sufficient detail to allow the United States

Patent and Trademark Office (USPTO) to reach the correct patent term adjustment respecting the disputed items.

The Applicant's calculation shows that the correct patent term adjustment should be 1145 days.

The bases under § 1.702 for the adjustment are as follows.

Positive Patent Term Adjustment

Three Year Guarantee

(35 USC § 154(b)(1)(B))

The USPTO calculation of the patent term adjustment under the three-year deadline for issuing a patent after its filing date was 0 days. The Applicant disagrees with this determination because the patent term adjustment on this ground should instead be 507 days, minus 0 days consumed by an appeal, for a net adjustment of 507 days.

Specifically, the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR shows that:

- the actual filing date of the application was June 26, 2003,
- the third anniversary of the actual filing date was June 26, 2006,
- the first request for continued examination of the application (RCE) under 35 USC 132(b) was filed on November 15, 2007;
- the first RCE was filed 507 days after the third anniversary of the actual filing date, which is the appropriate patent term adjustment on this ground.

Reductions in Patent Term Adjustment

Removing Overlap

- Two or more grounds of delay overlap for the following dates: from June 26, 2006, to March 21, 2007, totaling 268 days of delay. This overlap has been subtracted from the patent term adjustment in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR

Three Months to Respond to Office actions (37 CFR § 1.704(b))

The applicant is contesting the following application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment in the present application.

Period from September 12, 2009, to September 14, 2009

- The pertinent Office action was mailed on June 12, 2009,
- The date three months after the mailing date of the Office action is Saturday, September 12, 2009, (BEGIN DATE, stating day of the week and if it is a holiday))
- The response to the Office action was filed on Monday, September 14, 2009, (END DATE, stating day of the week)
- The reduction in the patent term adjustment proposed by the USPTO is 2 days,
- The Applicant's position is that the present Office action response filed on the first business day after a deadline falling on a weekend or holiday is not late, establishing the correct reduction in patent term adjustment is 0 days. The basis for this position is 37 CFR § 1.6(a)(1), which states in relevant part, "The Patent and Trademark Office is not open for the filing of correspondence on any day that is a Saturday, Sunday, or Federal holiday within the District of Columbia," and 37 CFR § 1.7(a), which states in relevant part: "When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday." In this case, 37 CFR § 1.7(a) is applicable because the last day set by statute (35 USC § 154(b)(2)(C)(ii)) for taking the action of filing a response to an Office action without being "deemed to have failed to engage in

reasonable efforts to conclude processing or examination of an application," falls on a Saturday, Sunday, or on a Federal holiday within the District of Columbia.

Net Patent Term Adjustment

The changes requested by the Applicant to the USPTO patent term adjustment determination in the Decision are as follows:

Three Year Guarantee (35 USC § 154(b)(1)(B))

	Patent Term Adjustment (days)
USPTO Calculation	0
Applicant Calculation	507

Reductions in Patent Term Adjustment

- **Removing Overlap**

	Patent Term Adjustment (days)
USPTO Calculation	0
Applicant Calculation	268

- **Three Months to Respond to Office actions
(37 CFR § 1.704(b))**

	Patent Term Adjustment (days)
USPTO Calculation	2
Applicant Calculation	0

Conclusion

The Applicant requests modification of the patent term adjustment as indicated above. As shown in the enclosed modified version of the USPTO Patent Term Adjustment calculation on PAIR, the patent term adjustment proposed by the Applicant is thus 1145 days.

Please charge any fees or credit any overpayment of fees presently required to McAndrews, Held & Malloy, Ltd., Deposit Account No. 13-0017.

Respectfully submitted,

McANDREWS, HELD & MALLOY, LTD.

Dated: June 25, 2010

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Ser. No.	10/606,565	Docket No.	14169US02
		PTO Calculation	

DATE	EVENT	PTO Delay	Appl. Delay
Monday, December 21, 2009	Mail Final Rejection (PTOL - 326)		
Thursday, December 17, 2009	Final Rejection		
Wednesday, October 07, 2009	Date Forwarded to Examiner		
Wednesday, October 07, 2009	Case Docketed to Examiner in GAU		
Monday, September 14, 2009	Response after Non-Final Action		
Saturday, September 12, 2009	Three months after Office action		
Friday, June 12, 2009	Mail Non-Final Rejection		
Thursday, June 11, 2009	Non-Final Rejection		
Thursday, April 09, 2009	Date Forwarded to Examiner		
Tuesday, February 24, 2009	Response after Non-Final Action		
Monday, November 24, 2008	Mail Non-Final Rejection		
Friday, November 21, 2008	Non-Final Rejection		
Sunday, October 05, 2008	Case Docketed to Examiner in GAU		
Tuesday, August 19, 2008	Date Forwarded to Examiner		
Tuesday, August 19, 2008	Date Forwarded to Examiner		
Tuesday, August 19, 2008	Disposal for a RCE / CPA / R129		

[illegible]

PATENT TERM ADJUSTMENT SPREADSHEET

Ser. No.

10/606,565

Docket No. 14169US02

		PTO Calculation	
DATE	EVENT	PTO Delay	Appl. Delay
Monday, April 16, 2007	Information Disclosure Statement considered		
Monday, April 16, 2007	Information Disclosure Statement considered		
Monday, April 16, 2007	Electronic Information Disclosure Statement		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Wednesday, March 21, 2007	Mail Non-Final Rejection	937	
Monday, March 19, 2007	Non-Final Rejection		
Tuesday, February 27, 2007	Case Docketed to Examiner in GAU		
Thursday, November 16, 2006	Case Docketed to Examiner in GAU		
Thursday, October 05, 2006	Case Docketed to Examiner in GAU		
Monday, June 26, 2006	Three year date		
Tuesday, March 21, 2006	Case Docketed to Examiner in GAU		
Friday, January 07, 2005	Miscellaneous Incoming Letter		
Thursday, August 26, 2004	14 month date		
Tuesday, July 06, 2004	IFW TSS Processing by Tech Center Complete		

		Applicant Calculation	
DATE	EVENT	PTO Delay	Appl. Delay
Monday, April 16, 2007	Information Disclosure Statement considered		
Monday, April 16, 2007	Information Disclosure Statement considered		
Monday, April 16, 2007	Electronic Information Disclosure Statement		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Monday, April 16, 2007	Information Disclosure Statement (IDS) Filed		
Wednesday, March 21, 2007	Mail Non-Final Rejection	937.00	
Monday, March 19, 2007	Non-Final Rejection	-268.00	
Tuesday, February 27, 2007	Case Docketed to Examiner in GAU		
Thursday, November 16, 2006	Case Docketed to Examiner in GAU		
Thursday, October 05, 2006	Case Docketed to Examiner in GAU		
Monday, June 26, 2006	Three year date		
Tuesday, March 21, 2006	Case Docketed to Examiner in GAU		
Friday, January 07, 2005	Miscellaneous Incoming Letter		
Thursday, August 26, 2004	14 month date		
Tuesday, July 06, 2004	IFW TSS Processing by Tech Center Complete		

PATENT TERM ADJUSTMENT SPREADSHEET

Ser. No.

1.0/606.565

Docket No. 14169US02

DATE	EVENT	PTO Delay	Appl. Delay
Wednesday, September 24, 2003	Application Return TO OIPE	NA	
Wednesday, September 24, 2003	Application Dispatched from OIPE	NA	
Wednesday, September 24, 2003	Application Is Now Complete	NA	
Wednesday, September 10, 2003	Cleared by OIPE CSR	NA	
	IFW Scan & PACR Auto	NA	
Tuesday, September 09, 2003	Security Review	NA	
Thursday, June 26, 2003	Initial Exam Team nn	NA	
		PTO (Days)	APPL (Days)
		937	33
PTA		904 Days	

Applicant Calculation	
PTO Delay	Appl. Delay
PTO Delay (Days)	APPL Delay (Days)
1176	31
1145 Days	

10/606,565	SYSTEM AND METHOD FOR PROVIDING A MESH NETWORK USING A PLURALITY OF WIRELESS ACCESS POINTS (WAPS)	06-25-2010::12:16:59
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Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/606,565

Filing or 371(c) Date:	06-26-2003	USPTO Delay (PTO) Delay (days):	-
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	-	Applicant Delay (APPL) Delay (days):	-
Post-Issue Petitions (days):	-	Total PTA (days):	904
USPTO Adjustment(days):	-	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
03-26-2010	Mail Notice of Allowance		
03-25-2010	Document Verification		
03-25-2010	Notice of Allowance Data Verification Completed		
03-22-2010	Information Disclosure Statement considered		
03-22-2010	Information Disclosure Statement (IDS) Filed		
03-22-2010	Electronic Information Disclosure Statement		
03-22-2010	Request for Continued Examination (RCE)		
03-23-2010	Disposal for a RCE / CPA / R129		
03-22-2010	Workflow - Request for RCE - Begin		
02-24-2010	Mail Notice of Allowance		
02-24-2010	Document Verification		
02-23-2010	Notice of Allowance Data Verification Completed		
02-23-2010	Case Docketed to Examiner in GAU		
02-16-2010	Date Forwarded to Examiner		
02-11-2010	Amendment after Final Rejection		
12-21-2009	Mail Final Rejection (PTOL - 326)		
12-17-2009	Final Rejection		
10-07-2009	Date Forwarded to Examiner		
09-14-2009	Response after Non-Final Action		2
10-07-2009	Case Docketed to Examiner in GAU		⬆
06-12-2009	Mail Non-Final Rejection		⬆
06-11-2009	Non-Final Rejection		
04-09-2009	Date Forwarded to Examiner		
02-24-2009	Response after Non-Final Action		
11-24-2008	Mail Non-Final Rejection		
11-21-2008	Non-Final Rejection		
10-05-2008	Case Docketed to Examiner in GAU		
08-11-2008	New or Additional Drawing Filed		
08-19-2008	Date Forwarded to Examiner		
08-19-2008	Date Forwarded to Examiner		
08-11-2008	Request for Continued Examination (RCE)		

08-19-2008	Disposal for a RCE / CPA / R129	
08-11-2008	Workflow - Request for RCE - Begin	
06-09-2008	Mail Final Rejection (PTOL - 326)	
06-09-2008	Final Rejection	
05-17-2008	Date Forwarded to Examiner	
04-28-2008	Response after Non-Final Action	31
04-28-2008	Request for Extension of Time - Granted	⬆
04-11-2008	Case Docketed to Examiner in GAU	⬆
12-28-2007	Mail Non-Final Rejection	⬆
12-26-2007	Non-Final Rejection	
12-11-2007	Date Forwarded to Examiner	
11-30-2007	Response after Non-Final Action	
11-30-2007	New or Additional Drawing Filed	
11-23-2007	Mail Notice of Informal or Non-Responsive RCE Amendment	
11-21-2007	Notice of Informal or Non-Responsive RCE Amendment.	
11-15-2007	New or Additional Drawing Filed	
11-21-2007	Date Forwarded to Examiner	
11-21-2007	Date Forwarded to Examiner	
11-15-2007	Request for Continued Examination (RCE)	
11-21-2007	Disposal for a RCE / CPA / R129	
11-15-2007	Workflow - Request for RCE - Begin	
10-04-2007	Case Docketed to Examiner in GAU	
08-20-2007	Mail Final Rejection (PTOL - 326)	
08-17-2007	Final Rejection	
04-16-2007	Information Disclosure Statement considered	
04-16-2007	Information Disclosure Statement considered	
06-21-2007	Date Forwarded to Examiner	
06-20-2007	Response after Non-Final Action	
04-16-2007	Electronic Information Disclosure Statement	
04-16-2007	Information Disclosure Statement (IDS) Filed	
04-16-2007	Information Disclosure Statement (IDS) Filed	
04-16-2007	Information Disclosure Statement (IDS) Filed	
03-21-2007	Mail Non-Final Rejection	937
03-19-2007	Non-Final Rejection	⬆
02-27-2007	Case Docketed to Examiner in GAU	⬆
11-16-2006	Case Docketed to Examiner in GAU	⬆
10-05-2006	Case Docketed to Examiner in GAU	⬆
03-21-2006	Case Docketed to Examiner in GAU	⬆
01-07-2005	Miscellaneous Incoming Letter	⬆
07-06-2004	IFW TSS Processing by Tech Center Complete	⬆
06-29-2004	Case Docketed to Examiner in GAU	⬆

04-30-2004	Transfer Inquiry to GAU	⬆
02-27-2004	Case Docketed to Examiner in GAU	⬆
09-25-2003	Application Return from OIPE	⬆
09-25-2003	Application Return TO OIPE	⬆
09-25-2003	Application Return from OIPE	⬆
09-25-2003	Application Is Now Complete	⬆
09-24-2003	Application Return TO OIPE	⬆
09-24-2003	Application Return from OIPE	⬆
09-25-2003	Application Is Now Complete	⬆
09-24-2003	Application Return TO OIPE	⬆
09-24-2003	Application Return from OIPE	⬆
09-24-2003	Application Is Now Complete	⬆
09-24-2003	Pre-Exam Office Action Withdrawn	⬆
09-24-2003	Application Return TO OIPE	⬆
09-24-2003	Application Dispatched from OIPE	⬆
09-24-2003	Application Is Now Complete	⬆
09-10-2003	Cleared by OIPE CSR	⬆
09-09-2003	IFW Scan & PACR Auto Security Review	⬆
06-26-2003	Initial Exam Team nn	⬆

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